

REMARKS

Entry of the foregoing amendment is respectfully requested. The Amendment is believed to place the application in condition for allowances and is, therefore, appropriate under Rule 116. The Amendment does not raise any new issues and, thus, does not require an additional search by the Examiner. The issues raised by the amended claim 7 are the same issues raised by the presently pending claims 7 and 2.

The Amendment was not earlier presented because applicant became familiar with new grounds for rejection only after they were first set forth in the final Office Action.

By the present amendment, claim 2 is canceled, and claim 7 is amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

The Examiner rejected claims 2-3, 6 and 7 under 35 U.S.C. § 102(b) as being anticipated by Tolbert et al., U.S. Patent No. 4,592,144 (Tolbert). The Examiner also rejected claims 3 and 5-8 under 35 U.S.C. § 102(b) as anticipated by Fujimura, U.S. Patent No. 4,581,822 (Fujimura). It is respectfully submitted that claims 3 and 5-8 are patentable over the cited prior art.

Specifically, claim 7 recites that:

- (i) display means (14) is provided in the housing (4) for displaying the identifying marks (18) and is spaced from the switching recess (6);
- (ii) the display means (14) is formed by a recess provided in the housing (4); and
- (iii) both the switching recess (6) and the display means recess are formed in an upper, with respect to the handle, surface of the housing (4).

As noted in the specification (page 6, lines 2-5), the provision of both the switching recess and the display means recess, which is spaced from the switching recess, in the upper, with respect to the handle, surface of the housing insures, on one hand, a good visibility of marks and, on the other hand, a cost-effective manufacturing of the housing, e.g., by casting.

It is respectfully submitted that the foregoing novel features of the present invention are not disclosed or suggested in the prior art, including Tolbert and Fujimura.

In Tolbert, the slide bottom 44 projects through an aperture 48 which at the same time functions as display means recess for one of the two function indications “lock” and “unlock”. Thus, the display means recess is formed within the switching recess, which is recognized by the Examiner himself (Page 3, paragraph 2 of the Action). This means that both recesses are not spaced from each other, and thus it is not possible to display respectively only one identifying mark of more than two functional steps.

The federal Circuit has mandated that 35 U.S.C. § 102 requires no less than “complete anticipation . . . [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim. (emphasis added)” Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, S.A. v. Cooper Life Sciences, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros. Inc. v. Union Oil Co., 2 U.S.P.Q. 2d at 1053.

Since Tolbert fails to disclose each and every feature of independent Claim 7, Tolbert, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Tolbert does not anticipate or make obvious the present invention as defined in Claim 7, and the present invention is patentable over Tolbert.

Fujimura likewise does not disclose the arrangement of both the switching recess and the display means recess in the upper, with respect to the handle, surface of the housing (it is noted that Fujimura has not been applied to rejection of claims 2, now canceled, that recited this feature). In Fujimura, the display means recess is provided in the upper surface, while the switching recess is formed in a side surface extending at a right angle to the upper surface.

Accordingly, it is respectfully submitted that Fujimura does not anticipate or makes obvious the present invention, as defined by claim 7, and claim 7 is patentable over Fujimura.

Claims 3, 5-6 and 8 depend on Claim 7 and are allowable for the same reasons Claim 7 is allowable and further because of specific features recited therein which, when taken alone and/or in combination with features recited in Claim 7 are not disclosed or suggested in the prior art.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 21, 2005.

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